IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 1191 of 2007()

CP.10/2006 of JUDL.MAGISTRATE OF FIRST CLASS, KARUNAGAPPALLY
CRIME NO. 74/03 OF KARUNAGAPPALLY EXCISE RANGE

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PETITIONER: ACCUSED

VISWANATHAN, S/O.SREEDHARAN,
PUTHENKANDATHIL VEEDU, NAMBARUVIKALA MURI,
KARUNAGAPPALLY, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT AND STATE

STATE OF KERALA, REPRESENTED BY
THE EXCISE RANGE INSPECTOR, KARUNAGAPPALLY
EXCISE RANGE, KOLLAM DISTRICT THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1191 of 2007

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Dated this the 13th day of April, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 8 of the Kerala Abkari Act. The petitioner has not appeared before the learned Magistrate. Final report has been filed. Cognizance has been taken. The learned Magistrate has issued a non-bailable warrant to procure the presence of the petitioner. According to the petitioner he has valid reasons for not appearing earlier before the learned Magistrate. The petitioner is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order.

(R. BASANT)
Judge

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